

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:18-cr-0154-JRS-DML
)	
MICAH HINES,)	
)	- 01
Defendant.)	

REPORT AND RECOMMENDATION

On September 17, 2019, October 1, 2019, and January 14, 2020, the Court held hearings on the Petition for Warrant or Summons for Offender Under Supervision filed on September 3, 2019, and Supplemental Petitions filed on September 13, and 16, 2019 and January 14, 2020. Defendant Hines appeared in person with his appointed FCD counsel Sam Ansell. The government appeared by Nick Linder and Kendra Klump, Assistant United States Attorneys. U.S. Parole and Probation appeared by Officers Jason Nutter and Ryan Sharp.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Hines of his rights and provided him with a copy of the Petition and the Supplemental Petitions. Defendant Hines orally waived his right to a preliminary hearing.

2. After being placed under oath, Defendant Hines admitted Violation Nos 1, 2, 3, and 4 as set forth in the Petition and the Supplemental Petitions. [Docket Nos. 43, 47, and 48.]

Government orally moved to withdraw the remaining violations [Dkt. 67], which motion was granted by the Court.

3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

**Violation
Number**

Nature of Noncompliance

- 1 **“You shall reside in a residential reentry center for a term of up to 6 months. You shall abide by the rules and regulations of the facility.”**

On August 21, 2019, Mr. Hines was observed rolling a spice joint on the residence floor of the Volunteers of America. Mr. Hines is aware of the facilities [sic] rules regarding any type of smoking in the building. He admitted to possessing and smoking Spice.

On August 22, 2109, Mr. Hines returned to the Volunteers of America and was caught with a lighter, which is contraband. When confronted, he made a threat to a correctional officer that he was going to "smoke him" when he sees him outside of the facility. He admitted saying this in anger and did not intent [sic] actual harm. He was placed on strict compliance at the facility due to these two incidents.

On September 2, 2019, at approximately 7:30 p.m., Mr. Hines returned from work to the Volunteers of America. Upon entering the facility, he was breathalyzed which tested positive for alcohol with a blood alcohol content of .078%. He admitted to "having a sip." Alcohol use while living at the facility is a violation of the facility's rules. Later that evening, at approximately 10:15 p.m., a correctional officer was completing a walk-through of the restroom. Mr. Hines was found in a stall and Spice use was suspected. Upon exiting the stall he appeared "very high." He refused to do go downstairs to do [sic] submit a drug screen. He then attempted to pass a substance to another resident, who refused to take it. He went back into the restroom stall and flushed the substance.

- 2 **“You shall not use or possess any controlled substances prohibited by applicable state or federal law, unless authorized to do so by a valid prescription from a licensed medical practitioner.”**

On August 21, 2019, Mr. Hines was observed in possession of synthetic marijuana, commonly referred to as spice. He admitted to Senior U.S. Probation Officer Ryan Sharp and the Volunteers of America Director Nichoel Maxey that he was smoking spice.

- 3 **“You shall reside in a residential reentry center for a term of up to 6 months. You shall abide by the rules and regulations of the facility.”**

On September 11, 2019, Mr. Hines returned from work to the Volunteers of America (VOA) and appeared to attempt to deceive the Breathalyzer by not blowing directly into it. Correctional Officer Marks noted an odor of alcohol and asked Mr. Hines if he had been drinking. He denied drinking any alcohol. He was Breathalyzer [sic] again and tested positive for alcohol with a blood alcohol content of 0.67%.

On September 12, 2019, at approximately 3:09 a.m., a correctional officer at the VOA was doing security checks in the bathroom, smelled smoke and observed smoke coming from the top of on of [sic] the stalls. The officer knocked on the door and asked who was in the stall and Mr. Hines stated his name.

- 4 **“You shall reside in a residential reentry center for a term of up to 6 months. You shall abide by the rules and regulations of the facility.”**

Celeste Jackson, the employment specialist at the Volunteers of America (VOA), received notice that Micah Hines returned to the facility intoxicated on September 11, 2019 (as previously reported), and again on September 12, 2019. She contacted Hine's [sic] employer, Professional Building Management, and was informed Hines was fired on September 11, 2019, for being under the influence of drugs and was sent home prior to starting his shift. Mr. Hines failed to return back to VOA to report this information, and instead returned in the evening under the guise of working all day. He signed out the following two days and stayed out all day under the guise of being at work. This client has been out of place for three days for more than 27 hours. When he returned on Friday evening, he was breathalyzed and had a blood alcohol content of .60%. He was placed on lock down status and is not allowed to leave the facility.

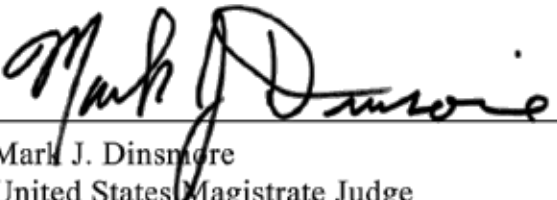
4. The Court finds that:
- (a) The highest grade of violation is a Grade C violation.
 - (b) Defendant's criminal history category is III.
 - (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 5 to 11 months' imprisonment.
5. The parties jointly recommended a sentence of seven (7) months incarceration

with no supervised release to follow..

The Magistrate Judge, having considered the factors set forth in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions set forth in Violation Nos. 1, 2, 3, and 4 of the Petition and the Supplemental Petitions, and recommends that Defendant's supervised release be revoked, and that he be sentenced to the custody of the Attorney General or his designee for a period of seven (7) months no supervised release to follow. The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge.

Dated: 31 JAN 2020



Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana

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